REMARKS

Entry of the foregoing amendments is respectfully requested.

Summary of Amendments

Upon entry of the foregoing amendments claims 1, 28 and 46 are amended, claims 38 and 39 are cancelled and claims 47 and 48 are added, whereby claims 1-37 and 40-48 will be pending, claims 1, 28 and 46 being independent claims.

Support for the new claims can be found throughout the present specification (see, e.g., page 8).

It is pointed out that the amendments to claims 1 and 46 and the cancellation of claims 38 and 39 are without prejudice or disclaimer, and Applicants expressly reserve the right to prosecute the cancelled claims and claims 1 and 46 in their original, unamended form in one or more continuation and/or divisional applications.

Summary of Office Action

As an initial matter, Applicants note with appreciation that the Examiner has indicated consideration of the Information Disclosure Statements filed October 8, 2004, January 7, 2005, February 6, 2006 and December 19, 2007 by returning signed and initialed copies of the Forms PTO-1449 submitted therein.

Applicants further note with appreciation that the Examiner has acknowledged the claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f) and the receipt of a certified copy of the priority

document.

Claims 38 and 39 are withdrawn from consideration.

Claims 1-22, 25-34, 36, 37, 45 and 46 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Touzan et al., U.S. Patent No. 6,210,656 (hereafter "TOUZAN").

Claims 1-25, 28-34, 36, 37 and 40-46 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Giret et al., U.S. Patent No. 5,776,872 (hereafter "GIRET").

Response to Office Action

Reconsideration and withdrawal of the rejections of record are respectfully requested in view of the foregoing amendments and the following remarks.

Response to Rejection of Claims under 35 U.S.C. § 103(a) over TOUZAN

Claims 1-22, 25-34, 36, 37, 45 and 46 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over TOUZAN. The rejection essentially alleges that TOUZAN discloses all of the elements which are recited in the rejected claims with the exception of the amounts of paraffin oil and of the one or more oils having a polarity of from about 5 to about 50 mN/m, the latter elements being obvious to one of ordinary skill in the art in the opinion of the Examiner.

Applicants respectfully traverse this rejection. Specifically, present independent claim 1 recites, *inter alia*, that the cosmetic or dermatological cleansing emulsion comprises from 2 % to about 17 % by weight of sodium laureth sulfate and/or sodium myreth sulfate.

In contrast, TOUZAN points out that the self-foaming composition taught therein is preferably free of surfactants and in any event, comprises less than 2 % of surfactants. For example, in col. 2, lines 27-31 and 61-63, col. 4, lines 57-59 and col. 7, lines 3-5 TOUZAN states:

> Accordingly, one object of the present invention is to provide a hair and skin treating composition which is more tolerant than those of the prior art, in the form of pressurizable, self-foaming creams comprising less than 2% of in [*sic*] surfactants, preferably no surfactants at all.
>
> The term "self-foaming" is understood to refer to a composition which is able to give rise to of a foam and which contains less than 2% of surfactants.
>
> The compositions of the invention may also comprise one or several surfactants in an amount less than 2% by weight, preferably in an amount less than 1.5% by weight.
>
> The present composition comprises little or no surfactant and is particularly suitable to care for and/or treat and/or cleanse sensitive skins.

The above statements make it apparent that, rather than rendering obvious compositions which comprise 2 % by weight or more of any surfactant, TOUZAN teaches away from such compositions. For this reason alone, TOUZAN fails to teach or suggest the claimed subject matter.

Applicants further note that while TOUZAN mentions that the emulsions taught therein may comprise up to 50 % by weight of fatty phase, TOUZAN also makes it clear that preferably the concentration of the fatty phase is much lower than 50 % by weight. For example, at col. 5, lines 58-61 TOUZAN states:

> Preferably, the compositions of the invention comprise from 5-40% by weight, relative to the total weight of the composition, of at least one cosmetic oil, and even more preferably from 10-30%.

Especially when also taking into account the fact that the emulsions of TOUZAN preferably contain no surfactant at all the above statement makes it even more apparent that the emulsions recited in the present claims and the compositions taught by TOUZAN are completely different from each other.

It further is pointed out that it is not seen that TOUZAN teaches or suggests using a fatty phase which comprises both a paraffin oil and one or more oils having a polarity of from about 5 to about 50 mN/m in certain concentrations, let alone within the concentration ranges recited in the present claims. In this regard, it is noted that the concentration ranges recited in, e.g., present claim 1 translate into an oil phase which comprises at least about 50 % by weight of paraffin oil, based on the weight of the oil phase. It is not seen that TOUZAN teaches or suggests that the fatty phase of the compositions disclosed therein should comprise at least about 50 % by weight of paraffin oil.

Applicants also point out that the present claims recite the viscosity of the claimed emulsion whereas TOUZAN is completely silent as to the viscosity of the compositions disclosed therein. It is noted that in this regard, the Examiner essentially takes the position that the compositions of TOUZAN should have the same viscosity as the claimed compositions because they allegedly have the same composition. However, as has been set forth above in detail, the compositions of the emulsions of TOUZAN and the present emulsions are distinctly different.

Further, regarding, for example, dependent claims 19, 20, 25 and 34, it appears that the present Office Action does not contain any explanation at all as to why in the Examiner's opinion the subject matter recited therein is allegedly rendered obvious by TOUZAN.

It is submitted that for at least all of the foregoing reasons, TOUZAN fails to render obvious the subject matter of any of the claims submitted herewith, wherefore the rejection of claims 1-22, 25-34, 36, 37, 45 and 46 under 35 U.S.C. § 103(a) over TOUZAN is without merit and should be withdrawn, which action is respectfully requested.

Response to Rejection of Claims under 35 U.S.C. § 103(a) over GIRET

Claims 1-25, 28-34, 36, 37 and 40-46 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over GIRET. The rejection essentially alleges that GIRET teaches all of the elements which are recited in the rejected claims with the exception of an emulsion which comprises more than 40 % by weight of oil phase, the latter element being allegedly obvious to one of ordinary skill in the art in the opinion of the Examiner.

This rejection is respectfully traversed as well. In particular, present independent claim 1 recites, *inter alia*, that the cosmetic or dermatological cleansing emulsion comprises from 42 % to about 51 % by weight of an oil phase.

In contrast, GIRET expressly teaches that the personal cleansing product taught therein contains not more than about 40 % by weight, i.e., from about 3 % to about 40 % by weight, preferably from about 5 % to about 20 %, and more preferably from about 8 % to about 15 % by weight, of an insoluble nonionic oil or wax. See, e.g., the abstract, col. 2, lines 1-18, col. 5, lines 21-25, and claim 1 of GIRET. For this reason alone, GIRET is unable to render obvious the subject matter of any of the claims submitted herewith.

It further is pointed out that present independent claim 1, for example, recites, *inter alia*, that the cosmetic or dermatological cleansing emulsion has a viscosity of from about 500 to about 3,500 mPa s at 100 s^{-1}.

In contrast, GIRET expressly teaches that the personal cleansing product taught therein has a much higher viscosity than that recited in present claim 1, i.e., from 10,000 to 40,000 cps (=10,000 to 40,000 mPa s). See, e.g., abstract, col. 2, lines 1-29, col. 9, lines 15-41, and claims 1 and 15 of GIRET.

Applicants note that in this regard the Examiner relies on col. 18, lines 28-45 of GIRET. However, in view of the passages of GIRET pointed out above one of ordinary skill in the art will readily recognize that the passage of GIRET relied on in the present Office Action was included in the specification thereof by mistake.

The same applies to the passage in col. 10, lines 18-27 of GIRET (also relied upon in the present rejection), which passage relates to suitable anionic polymers for the compositions of GIRET although in col. 9, lines 42-48 GIRET states that the polymeric skin or hair conditioning agents which are preferably contained in these compositions are cationic or nonionic and all of the compositions of the Examples of GIRET are in accordance with this statement.

It further is not seen that GIRET teaches or suggests using an oil phase which comprises both a paraffin oil and one or more oils having a polarity of from about 5 to about 50 mN/m in certain concentrations, let alone within the concentration ranges recited in the present claims. In this regard, it is pointed out again that the concentration ranges recited in, e.g., present claim 1 translate into an oil phase which comprises at least about 50 % by weight of paraffin oil, based on the weight of the

oil phase. It is not seen that GIRET teaches or suggests that the oil phase of the compositions disclosed therein should comprise at least about 50 % by weight of paraffin oil. On the contrary, according to col. 5, lines 55-57, "highly preferred from the viewpoint of optimum lathering and mildness are the vegetable triglyceride oils", examples whereof include component (c)(ii) as recited in, e.g., present claim 1. This is a disincentive rather than a motivation to provide an oil phase which comprises not more than about 50 % by weight of component (c)(ii).

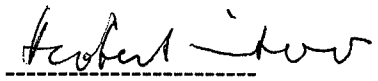
Regarding, for example, dependent claims 19, 20 and 34, it is noted that the present Office Action does not appear to contain any explanation whatsoever as to why in the Examiner's opinion the subject matter recited therein is rendered obvious by GIRET.

It is submitted that for at least all of the foregoing reasons, GIRET is unable to render obvious the subject matter of any of the claims submitted herewith, wherefore the rejection of claims 1-25, 28-34, 36, 37 and 40-46 under 35 U.S.C. § 103(a) over GIRET is unwarranted as well, and withdrawal thereof is respectfully requested.

CONCLUSION

In view of the foregoing, it is believed that all of the claims in this application are in condition for allowance, which action is respectfully requested. If any issues yet remain which can be resolved by a telephone conference, the Examiner is respectfully invited to contact the undersigned at the telephone number below.

Respectfully submitted,
Michaela KOHUT et al.



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